

REMARKS

Claims 18-24 are currently pending. Claims 22 and 23 are amended herein. Support for these amendments is found throughout the specification at, *e.g.*, column 20, lines 31-51; and column 21, lines 29-33. It is believed that no new matter has been added. No claim is allowed.

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Applicants gratefully acknowledge the withdrawal of the outstanding rejections under 35 U.S.C. § 112, first and second paragraphs.

Applicants acknowledge that the Patent Office has received the original Letters patent for the instant application.

Applicants have provided herein an amended set of claims in which all of the new claims are indicated as new and are completely underlined. For the Examiner's convenience, Applicants have marked claims 22 and 23 as currently amended relative to the originally submitted new claims in the Amendment mailed December 2, 2003. The amendments to claims 22 and 23 are detailed below.

Rejection Under 35 U.S.C. § 251

Claims 18-24 are rejected as allegedly being based upon a defective declaration under 35 U.S.C. § 251. According to the Examiner, the supplemental oath previously submitted failed to indicate that all amendments including the most current one had been reviewed by the declarant. Applicants traverse this rejection.

A substitute declaration under 35 U.S.C. § 251 is provided herein, rendering this rejection moot. Therefore, Applicants respectfully request the withdrawal of this rejection.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 22-23 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. According to the Examiner, claim 22 is indefinite in its recitation of "variant". The Examiner also asserts that claim 23 contains a limitation of "the mature polypeptide of SEQ ID

NO:2, 4, or 5” that is broader than the limitations of independent claim 18. Applicants traverse this rejection.

Claim 22 is amended herein to clarify that the claimed “variant” is a variant polynucleotide by the insertion of the term “polynucleotide” following the claimed “variant” in claim 22. *See, e.g.*, column 20, lines 31-51 of the instant specification. Therefore, the rejection of claim 22 is rendered moot.

Applicants respectfully submit that claim 23 is properly dependent on claim 18 as the recitation of “the mature polypeptide of SEQ ID NO:2 or 4” is a narrower embodiment of the polynucleotide as claimed in claim 18. *See, e.g.*, column 21, lines 29-33 of the instant specification. The polynucleotides of claim 18 include the mature polypeptide as well as the signal sequence. This is indicated in the sequence data itself as residues -21 to -1 as well as in the text. *See, e.g.*, column 6, at lines 19-21 (“The signal sequence probably is about 21 residues, and would run from the Met to about Ala.”). Therefore, the polynucleotide of claim 23 is a smaller polynucleotide that encodes a polypeptide of SEQ ID NO:2 or 4 that lacks the signal sequence amino acids. Applicants have deleted the reference to SEQ ID NO:5 in the instant claim as its sequence does not include any signal sequence. Because the mature polypeptide of SEQ ID NO:2 or 4 is one that is smaller, but included in the polypeptide sequence of SEQ ID NO: 2 or 4 as claimed in claim 18, Applicant submit that claim 23 is properly dependent on claim 18.

In view of the above, Applicants respectfully submit that the basis of this rejection may be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 140942000201. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By


Laurie L. Hill, Ph.D.

Registration No.: 51,804

MORRISON & FOERSTER LLP

3811 Valley Centre Drive, Suite 500

San Diego, California 92130

(858) 720-7955